

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
STUART PIVAR,

Plaintiff,

-against-

THE VAN GOGH MUSEUM,

Defendant.  
-----X

Civ A No. 1\_21-cv-09362-LLS

AFFIDAVIT IN OPPOSITION

STATE OF NEW YORK     )  
                                  ) ss:  
COUNTY OF NEW YORK    )

STUART PIVAR, being duly sworn, deposes and says:

1. I am the plaintiff in the above referenced matter, and I make this affidavit under penalty of perjury in opposition to defendant's motion to dismiss.
2. Contrary to the assertions of the defendant, it would be incredibly burdensome for me to travel to the Netherlands to prosecute this action. I am 91 years old and since the advent of Covid hardly leave my apartment on the Upper West Side of Manhattan, let alone travel outside the United States.
3. I am frail and my eyesight is not as acute as it was previously.
4. I never signed the Terms and Conditions of the Van Gogh Museum Foundation for the Purposes of Researching Authenticity ("Terms and Conditions") as it was not part of the one page authentication request from which I executed and returned to the defendant. It was only incorporated by reference. I was consequently not aware at the time that I agreed to submit my painting for authentication to the defendant that I was also purportedly agreeing to their Terms and Conditions which included agreement to

litigate any dispute in connection with this submission in Amsterdam according to Dutch law. I would never have agreed to submit my painting for authentication to the defendant had I been aware that doing so would require me to resolve any dispute with the defendant about the painting in Amsterdam and according to Dutch law.

5. The agreement with the defendant was not negotiated but sent to me as a pre-existing document which I was required to accept without discussion. Because the defendant holds an effective monopoly over the authentication and study of works by Van Gogh, I simply executed the document and do not even recall whether I had received the Terms and Conditions at the time I did so.
6. I do not recall ever reading the Terms and Conditions. My memory is not always as good as I was previously.

  
STUART PIVAR

Sworn to before me this  
28<sup>th</sup> day of January, 2022

  
NOTARY PUBLIC

